

## **REMARKS**

Favorable reconsideration of the present application is requested. Claims 25 and 26 have been added. Claims 1-26 are pending.

### **REJECTION UNDER 35 U.S.C. §102**

The Examiner rejects claims 1-24 under 35 U.S.C. §102(e) as allegedly being anticipated by U.S. Patent No. 6,029,144 ("*Barrett*"). This rejection is respectfully traversed.

The Examiner relies upon the auditor system 256 of Barrett to allegedly teach the "first apparatus," recited in claim 1. In doing so, the Examiner relies upon column 6, lines 9-12 of Barrett and states:

...'policy checker 208 comprises a means for testing the selected expense entries in audit queue 308 for compliance with established policies and rules;' The examiner takes the position that in order to test expense entries, the policy checker has to detect if there is an appropriate rule or policy that dictates whether reimbursement should be paid for the expense being audited)

Final Office Action at 2-3.

Applicant disagrees with the Examiner's position. According to column 6, lines 9-12 and lines 23-27, policy checker 208 tests expense entries in an audit queue 308 for compliance with established policies and rules. The policies and rules include policies and procedures for expense account reimbursement and are stored in a rules database 402. See, *generally*, cols. 6-7 of Barrett. Barrett, however, says nothing about the rules in the rules database 402 being "fuzzy process definitions."

The Examiner appears to recognize this fact, and as a result, directs Applicant's attention to the "fuzzy rules," discussed in column 12, lines 54-57 of Barrett to teach the "fuzzy process definitions," of claim 1. In doing so, the Examiner states:

The Examiner takes the position that the purpose of the rules, in the invention of Barrett et al., is to define the reimbursement process in the automated auditing system;

Final Office Action at 3.

Assuming *arguendo* that the fuzzy rules disclosed by Barrett correspond to the "fuzzy process definitions," of claim 1 (which Applicant does not admit), the Examiner fails to realize that column 12, lines 54-57 does not discuss the rules in the rules database 402. Column 12, lines 43-57 of Barrett discusses a preferred method for training data pattern analyzer 210 in which fuzzy rules are used as fraud detecting rules to detect fraud. The fraud detecting rules are extracted from statistical distributions of groups used to locate expense entries in which a high probability of fraud exists. These fraud detecting rules discussed in column 12 are wholly separate and different from the rules used by the policy checker 208 to determine whether to make reimbursement payments. Compare, Barrett cols. 6 and 7 with col. 10, l. 40 – 45, col. 11, ll. 16-21 and col. 12, ll. 43-57.

Moreover, as discussed in col. 10, lines 40-51, the data pattern analyzer 210 (in which the fraud detection is performed) receives data from the audits performed by the policy checker 208. In other words, the fraud detection performed by the data pattern analyzer 210 is performed only after the rule checking and auditing done by the policy checker 208. Further leading one to conclude that the rules in the rules database 402 are not the fraud detecting rules discussed in column 12 of Barrett. Accordingly, the rules in the rules database 402 are not "fuzzy process definitions," and the policy checker 208 does not constitute the "first apparatus," of claim 1.

Moreover, as the Examiner will appreciate from review of FIG. 2 of Barrett, the policy checker 208 is part of the host system 250, whereas the audit workflow 216 is

part of the completely separate auditor system 256. Because the auditor system 256 is completely separate from the host system 250, the policy checker 208 and the audit workflow 216 cannot be said to constitute the single "first apparatus," of claim 1.

Later in the rejection of claim 1, the Examiner again relies on the audit workflow 216 of the auditor system 256 (Office Action at 3) to also teach the "second apparatus," of claim 1. In doing so, however, the Examiner relies upon the same auditor system 256 to teach the two separate apparatuses (i.e., the "first apparatus," and the "second apparatus,") of claim 1. As the Examiner will appreciate, however, the auditor system 256 is, at most, a single system, but not two discrete apparatuses. Therefore, Barrett fails to teach or suggest the "first apparatus," and "second apparatus," of claim 1.

Further still, the Examiner rebuts Applicant's previous argument that auditor system 256 to is not the "second apparatus," of claim 1 because the auditor workflow 216 does not control of activity stages, but instead merely guides a human auditor through each claim audit. In doing so, the Examiner argues, "that the human being is merely providing instructions to the auditing workflow system, and that the workflow system actually performs the controlling of the workflow system," relying upon column 8, lines 45-50 of Barrett. Final Office Action at 19. Applicant disagrees.

Column 8, lines 45-50 of Barrett states:

In the preferred embodiment, the auditor workflow system 216 guides the auditors through each claim audit. The workflow system 216 uses the claim information from the audit output (audit\_fail and audit\_adjustments) and a FlowMark business model to pass the policy checker 208 recommendations to a human auditor, and to act upon the auditors actions on these recommendations.

The above-quoted portion of Barrett only further supports Applicant's assertion that the control of the workflow system rests with the human auditor in that the auditor

workflow system 216 does not perform any action without instruction from the human auditor. Thus, in Barrett, control rests solely with the human auditor, not the workflow auditor system 216. Thus, the workflow auditor system 216 is not the "second apparatus," of claim 1.

For at least the foregoing reasons, claim 1 is patentable over Barrett. Claims 10 and 24 are patentable over Barrett for at least reasons somewhat similar to those set forth above with regard to claim 1.

Claims 2-9 and 11-23 are patentable over Barrett at least by virtue of their dependency from claims 1, 10 or 24.

### **NEW CLAIMS**

Applicant has added new claims 25 and 26, which are also believed to be patentable over the prior art.

New claim 25 requires that, "the first and second apparatuses are separate and discrete apparatuses." As discussed above, the Examiner directs Applicant's attention to the audit workflow 216 in the auditor system 256 of Barrett. Because the auditor system 256 is, at most, a single system, but not two discrete apparatuses as required by claim 1, the auditor system 256 in Barrett cannot be said to teach or suggest both the first and the second apparatuses of claim 1.

New claim 26 recites, "the second apparatus is adapted to control activity stages in a workflow for the purpose of processing the process definitions independent of human intervention." As discussed above, the audit workflow system 256 of Barrett requires human instruction, and thus, does not control activity stages "independent of human intervention," as required by claim 26.

## CONCLUSION

In view of the foregoing remarks, favorable reconsideration and allowance of the pending claims is requested.

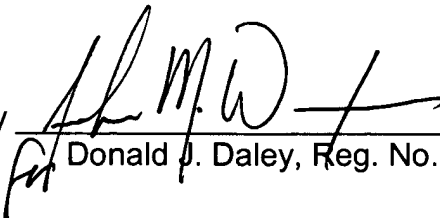
Pursuant to 37 C.F.R. §§ 1.17 and 1.136(a), Applicant(s) hereby petition(s) for a three (3) month extension of time for filing a reply to the outstanding Office Action and submit the required \$1,050 extension fee herewith.

If the Examiner believes that personal communication will expedite prosecution of this application, the Examiner is invited to telephone Andrew M. Waxman, Reg. No. 56,007, at the number of the undersigned listed below.

If necessary, the Commissioner is hereby authorized in this, concurrent, and future replies to charge payment or credit any overpayment to Deposit Account No. 08-0750 for any additional fees required under 37 C.F.R. §§ 1.16 or 1.17; particularly, extension of time fees.

Respectfully submitted,

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